S.B. Civil Writ Petition No.4804/04

Rajesh Kumar Sharma Vs. State & Ors.

Date of Order : 19/04/2006

Hon'ble Mr. Justice Ajay Rastogi

Mr. B.M. Sharma, for petitioner
Mr. S.N. Kumawat, for respondent

Instant petition has been filed by the petitioner seeking appointment on the basis of his name finds place in the reserve list at Sr.No.20 as communicated by the Commission vide letter Ann.2 dt.13th February, 2004.

Advertisement was issued from the office of Commission for the post of Head Master [School Education] and the petitioner, who is member of Open Category submitted application and after his participation in the process of selection, was finally found suitable and informed by the commission of his name being at R-20 vide its communication dt.13.02.2004 [Ann.2].

Only submission made by the counsel for petitioner is that against availability of vacancies, which were duly advertised by the respondents, he has a right to be considered for appointment on the basis of his name finds place in the reserve list prepared by the commission in pursuant to the advertisement.

Undisputed facts, which have come on record, are that the post in question is included in the Schedule appended to the Rajasthan Education Service Rules, 1970 and in terms of Rule 20, the Commission may, on requisition received, within a period of six months from the date the main list is forwarded, may send the names of applicants from the reserve list to the State Government and undisputedly, the main list was forwarded from the office of Commission on 17th January, 2004 as six months period as referred to under Rule 20 expired on 16th July, 2004 and upto 24th June, 2004 there were 5 vacancies available of which requisition was sent by the Government to the Commission. Pursuant to which, names of 5 candidates from the reserve list were forwarded by the Commission on 7th July, 2004 and they were considered for appointment by the State Government.

It is not the case of the petitioner that any candidate/applicant lower in merit from the reserve list/waiting list has either been recommended by the commission or considered for appointment by the State Government. The submission made by the counsel that because of availability of vacancies, he has right to be considered for appointment, in my opinion, is without any substance for the reason that it is for the government to take its decision to make appointment from

the reserve list, if applicant for good reasons finds place in the main list, does not join, but no indefeasible right has otherwise been accrued in favour of a candidate merely on account of selection or placement in the reserve list.

In the present case, no further requisition was sent from the office of respondent-State, as such there was no occasion for the Commission to recommend the names of candidates from the reserve list. In my considered opinion, atleast after expiry of period of six months from the date main list was forwarded by the Commission to the State Government neither the State Government is competent to send any further requisition nor the commission is under an obligation to recommend the names after expiry of said period. Undisputedly, in the present case, the period stipulated under Rule 20 has already expired and the writ petition itself was filed after expiry of said period and no person lower in order of merit has been considered for appointment by the respondents which in no manner has defeated his selection.

Consequently, the writ petition fails and is hereby dismissed. [Ajay Rastogi],J.

FRB